

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

THE ROBBINS COMPANY,

Plaintiff,

v.

JCM NORTHLINK, LLC,

Defendant.

NO. C16-646RSL

TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE

This matter having come before the Court on the Verified Complaint, Motion for Temporary Restraining Order, and Motion for Order to Show Cause of plaintiff The Robbins Company, the Court finds as follows:

1. Robbins has demonstrated a substantial likelihood of success on the merits of at least one of its claims.

2. The rights of Robbins with respect to its property, trade secrets, and proprietary and confidential information will be violated by defendant JCM Northlink, LLC, unless defendant is restrained therefrom.

3. Robbins will suffer irreparable harm and loss if defendant is permitted to deconstruct Robbins's tunnel-boring machine (TBM), including, without limitation, its cutterhead support assembly (CHS Assembly), beyond any limited disassembly necessary to return it to Robbins pursuant to the Rental Agreement or if defendant is permitted to conduct any inspection or testing of the CHS Assembly or any other portion of the TBM without Robbins's express

1 consent.

2 4. Robbins has no adequate remedy at law.

3 5. Greater injury will be inflicted upon Robbins by the denial of temporary injunctive
4 relief than would be inflicted upon defendant by the granting of such relief.

5 6. Although Robbins moved for a temporary restraining order in this case, the relief it is
6 seeking is equitable and the relief to be granted falls within the sound discretion of the trial court
7 based on all the information before it. It is apparent from the materials filed in this action that
8 the parties anticipate future litigation regarding what responsibility, if any, Robbins has for
9 losses suffered by JCM. Fairness to both parties would require that both JCM and Robbins not
10 only be present, but actively present, to observe testing performed by an agreed-upon entity at a
11 mutually agreeable location with the appropriate confidentiality agreements in place. The Court
12 has considered, and will continue to consider, the interests of both parties and the public in the
13 resolution of this dispute.

14 7. JCM was given notice of Robbins's complaint and motion and filed a response on May
15 9, 2016. Dkt. # 17. The Court gave Robbins an opportunity to file a reply (Dkt. # 24), and
16 Robbins filed a reply on May 11, 2016 (Dkt. # 27). JCM filed a supplemental memorandum and
17 declarations on May 12, 2016. Dkt. ## 28-30. Robbins filed objections to and a motion to strike
18 defendant's surreply and supplemental declarations. Dkt. # 32. Although the Court ordinarily
19 would strike an unauthorized surreply under LCR 7(g), the Court has considered the material in
20 defendant's supplemental memorandum and declarations as further information regarding the
21 ongoing interactions between the parties. Earlier today, JCM filed a motion for leave to file
22 additional briefing, as well as the additional briefing and declaration. Dkt. ## 35-37. The Court
23 grants the leave to file additional briefing and has considered the material submitted. The Court
24 cautions the parties to avoid making other extraneous filings; each party will have the
25 opportunity to inform the Court of additional relevant facts or argument at the preliminary
26 injunction hearing.

27
28 TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE - 2

1 8. On May 12, 2016, Robbins filed a motion for an order to show cause pursuant to RCW
2 7.64. Dkt. # 33. The motion is currently noted for May 27, 2016. Dkt. # 33.

3 **IT IS HEREBY ORDERED AND DECREED THAT:**

4 1. A Temporary Restraining Order issue immediately and that security in the amount of
5 \$50,000 be posted no later than May 16, 2016. The Court would have been receptive to
6 estimates from JCM regarding the costs of holding the TBM on its site or transporting the CHS
7 Assembly with Shield A attached. JCM, however, did not provide any such estimates and
8 merely asserted that security of \$5,000,000 would be reasonable because it anticipates a claim
9 against Robbins of \$36,000,000. Dkt. # 17 at 25. Therefore, the Court is left in the position of
10 making a determination regarding security without the necessary facts to guide it.

11 2. Defendant is enjoined and restrained, directly or indirectly, and whether alone or in
12 concert with others, including any officer, agent, representative, and/or employee of defendant
13 JCM, until hearing and thereafter until further Order of the Court from:

14 a. deconstructing the TBM, including, without limitation, its CHS Assembly
15 further than any limited disassembly necessary to return it to Robbins pursuant to the Rental
16 Agreement;

17 b. conducting any inspection or testing of the CHS Assembly or any other portion
18 of the TBM without Robbins's express consent; and

19 c. moving the CHS Assembly or any other portion of the TBM to any location
20 other than Robbins's designated storage area or Jesse Engineering in Tacoma, WA.

21 3. This Order shall remain in full force and effect until hearing and thereafter until further
22 Order of the Court.

23 4. JCM shall appear before the Honorable Robert S. Lasnik, United States District Judge
24 for the Western District of Washington, 700 Stewart Street, Courtroom # 15106, Seattle, WA
25 98101 on June 2, 2016, at 1:30 p.m. to show cause why Robbins should not be put in possession
26 of the property at issue and why a Preliminary Injunction should not be ordered according to the

1 terms and conditions set forth above, subject to any modifications the Court deems necessary
2 following the hearing pursuant to RCW 7.64. If JCM fails to appear as ordered, an order
3 awarding immediate possession to Robbins will be issued under RCW 7.64. JCM may file a
4 response to Robbins's motion for an order to show cause (Dkt. # 33) on or before May 23, 2016.
5 Robbins may file a reply on or before May 25, 2016.

6
7 DATED this 13th day of May, 2016.

8
9 

10 Robert S. Lasnik
11 United States District Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27